THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.10640 and 10680 of 2006

Dated:24.01.2007

Between:

Adapa Ammiraju and another.

…Petitioners

and

The Regional Joint Commissioner and others.

…Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.10640 and 10680 of 2006

COMMON ORDER:

The land admeasuring Acs.10.00 belonging to the third respondent-Temple was under the tenancy of Adapa Ramaswamy. After his death, his wife and son were cultivating the land. Both of them filed separate applications under Rule 3 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Lease of Agricultural Lands Rules, 2003 (for short 'the Rules'), before the Assistant Commissioner of Endowments, second respondent herein, seeking a declaration that they are landless poor persons for the purpose of getting benefit under Section 82 of the Andhra Pradesh Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short 'the Act'). By an order, dated 25.05.2005, the second respondent rejected the two separate applications. These were challenged before the first respondent under Rule 4 of the Rules unsuccessfully. Aggrieved by the orders of the first respondent dated 28.02.2006, the wife of late Ramaswamy filed W.P.No.10640 of 2006, and the son filed W.P.No.10680 of 2006.

Learned Counsel for the petitioners submits that after the death of Ramaswamy, his wife and son were cultivating the land, which is less than the prescribed extent under the explanation to Section 82(2) of the Act, and therefore, they are entitled for declaration. He also submits that the third respondent also recognised the separate

tenancy/occupation enjoyed by both the petitioners, and therefore, the orders of the first respondent are erroneous.

Learned Assistant Government Pleader for Endowments has placed before this Court an unreported decision of the Division Bench of this Court in W.A.No.1302 of 2003, dated 05.08.2003, wherein the Division Bench considered a similar question. Repelling such contention, the Division Bench held as under.

> We are unable to accept the submission made on behalf of appellants. As a matter of fact, direction of learned single Judge is very clear that for the purpose of deciding the question as regards status of the landless poor, it is the status of the actual lessee of the land which has to be taken into account and not of any other person. The *inter se* family partition effected between the members of the family will be of no consequence. It is the relationship between the lessor and lessee, which is the *sine qua non*. Therefore, only the status of the actual lessee will be taken into consideration and the words used in sub-rule (2) of Rule 3 of the above Rules i.e., 'cultivating tenant' would confine only to actual lessee and not all persons, who might be cultivating the land by private negotiations…

Following the above judgment of the Division Bench, these Writ Petitions are dismissed. No costs.

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(V.V.S.RAO, J)

24.01.2007
vs